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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/710,434	07/10/2004	Carol Elise Pawlak	3090-02	4433
37101	7590 10/10/2006		EXAMINER	
LAW OFFICE OF MICHAEL P. EDDY			DAVIS, CASSANDRA HOPE	
12526 HIGH BLUFF DRIVE, STE. 300 SAN DIEGO, CA 92130		300	ARTUNIT	PAPER NUMBER
			3611	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/710,434	PAWLAK, CAROL ELISE				
Office Action Summary	Examiner	Art Unit				
	Cassandra Davis	3611				
The MAILING DATE of this communication appeared for Reply	opears on the cover sheet w	vith the correspondence address				
A SHORTENED STATUTORY PERIOD FOR REP WHICHEVER IS LONGER, FROM THE MAILING I - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the maili earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNI 1.136(a). In no event, however, may a d will apply and will expire SIX (6) MO te, cause the application to become A	reply be timely filed NTHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on						
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4) Claim(s) 1-5 is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-5</u> is/are rejected.						
7) Claim(s) is/are objected to.)□ Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/	or election requirement.					
Application Papers						
9) The specification is objected to by the Examin	ner.					
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the corre	ction is required if the drawing	g(s) is objected to. See 37 CFR 1.121(d).				
11) The oath or declaration is objected to by the E	Examiner. Note the attache	d Office Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the pri	ority documents have beer	n received in this National Stage				
application from the International Bures						
* See the attached detailed Office action for a list	st of the certified copies no	t received.				
Attachment(s)						
1) Notice of References Cited (PTO-892)	Summary (PTO-413)					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No	(s)/Mail Date				
3) Mail Date 3) Information Disclosure Statement(s) (PTO/SB/08)	5) Notice of 6) Other:	Informal Patent Application				

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear if the applicant is positively claiming the baked good in combination with the decorative holder article.

In claim 3, it is unclear if the "one or more decorative accessories" is the same as the "decorative accessory" recited in claim 1.

In claim 3, the applicant recites an improper Markush grouping. The examiner will consider favorably the phrase "said decorative accessory is selected from the group consisting of trinkets, gifts, soaps, bath salts, jewelry, chocolates, nuts, and mints".

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

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Therefore, the decorative accessory, gift items, trinkets, gifts, soaps, bath salts, jewelry, chocolates, nuts, and mints must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by "Merry Cookies; sample the latest batch of winning recipes in CNY's annual holiday contest", THE POST STANDARD, December 9, 1998.
- 6. The Merry Cookies article teaches a decorative holder for cookies comprising a stack of cookies wrapped with plastic wrap and tied with a pretty ribbon. The stack of cookies also has a laminated card tied thereon. The examiner considers the cookies to correspond to the claimed baked goods, the plastic wrap to correspond to the claimed sheet of decorative material, and the card to correspond to the decorative accessory affixed to the ribbon.
 - 7. With respect to claims 4, the card corresponds to the trinket.

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8. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by "The bear Basics of Gift Wrapping", Floridian, December 16, 1997

The Bear Basics article teaches a decorative holder for a bear comprising a bear wrapped with wrap in a bag and tied with a plastic raffiastyle ribbon. Adding a cookie cutter decoration that double as a gift tag and an ornament that hints at what's inside the box. The examiner the bag wrap to correspond to the claimed sheet of decorative material, and the cookie cutter to correspond to the decorative accessory affixed to the ribbon. In addition, the examiner considers the ornament to correspond to the gift items.

Conclusion

- 9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sevigne, U. S. Patent 628,859 is cited to show baked good/bread wrapped in paper and tied with a cord and a card.
- 10. Canine Carob Cupcakes is cited to show baked goods wrapped in decorative material with a card and ribbon. Packing Homemade Goodies as Holiday Gifts is cited to show cookies in a cup and wrapped with decorative material and tied with a ribbons.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cassandra Davis
Primary Examiner
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CD October 2, 2006